United Nations A/62/284–S/2007/502

General Assembly
Security Council

Distr.: General
21 August 2007

Original: English

General Assembly
Sixty-second session
Item 76 of the provisional agenda*
**Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994**

Security Council
Sixty-second year

# Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

## Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the twelfth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, submitted by the President of the International Tribunal for Rwanda in accordance with article 32 of its statute (see Security Council resolution 955 (1994), annex), which states:

> "The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly."

* A/62/150.

07-48729 (E) 190907

## Letter of transmittal

15 August 2007

I have the honour to submit the twelfth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 dated 15 August 2007 to the General Assembly and the Security Council, pursuant to article 32 of the statute of the International Tribunal.

The President
(*Signed*) Charles Michael Dennis **Byron**

# Twelfth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

*Summary*

The present annual report outlines the activities of the International Criminal Tribunal for Rwanda for the period from 1 July 2006 to 30 June 2007.

In addition to judicial matters falling within the ambit of the President's powers, the Office of the President continued its action in view of the completion strategy of the Tribunal during the reporting period. A revised completion strategy report was submitted to the Security Council on 24 May 2007 in conformity with Security Council resolution 1534 (2004).

During the reporting period, the three Trial Chambers of the Tribunal rendered five judgements in cases involving five accused persons (*Jean Mpambara, Tharcisse Muvunyi, Joseph Nzabirinda, Athanase Seromba* and *André Rwamakuba*). Two other trials involving five accused have been completed and await judgements (*Theoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze and Anatole Nsengiyumva* and *François Karera*). One case has been transferred to the Kingdom of The Netherlands. A new trial concerning one accused commenced in June 2007. In addition to the 27 cases involving 33 accused that have been completed in first instance, trials involving 22 accused in 9 different cases are in progress. Eight detainees are awaiting trial.

The Appeals Chamber rendered 4 appeal judgements in respect to 6 persons (*André Ntagerura, Emmanuel Bagambiki, Samuel Imanishimwe, Sylvestre Gacumbitsi, Emmanuel Ndindabahizi* and *Mika Muhimana*), 9 interlocutory decisions, 8 decisions on review or reconsideration, 1 decision on a referral appeal, and 96 pre-appeal orders and decisions.

The prosecutor has continued to focus his efforts on securing the arrest of the remaining fugitives. The prosecutor has handed over 30 case files for prosecution before Rwandan national courts. He also entered into negotiations with States for the transfer of approximately 15 cases from the Tribunal to national jurisdictions.

The Registry continued to play a crucial role in the provision of administrative and judicial support to the Tribunal. It played an instrumental role in ensuring the cooperation and assistance of Member States with the Tribunal. The Outreach Programme of the Registry conducted a diverse range of activities both in Arusha and in Rwanda. The Court Management Section supported 15 trials during the reporting period and maintained all relevant documentation. The Defence Counsel and Management Section continued to offer support to defence teams of indigent accused persons or suspects. The Witnesses and Victims Support Section assisted 280

witnesses and continued its work in the relocation of protected witnesses. The Press and Public Affairs Unit and the Legal Library and Reference Section continued to contribute to the large promotion of the Tribunal's work as well as to the capacity-building of Rwanda.

During the reporting period, Rwanda has continued to cooperate with the Tribunal by facilitating the flow of witnesses from Kigali to Arusha and by providing relevant documents to court proceedings.

To date, the Tribunal has concluded proceedings against 33 accused persons. The present report illustrates the Tribunal's absolute commitment to meeting the completion strategy targets while ensuring the respect of due process. It must, however, be stressed that the success of the completion strategy will continue to depend on the assistance and cooperation of States. Sufficient resources must be provided to the Tribunal to complete its work. Member States are also requested to accept the transfer of cases in order to further investigations and trials. Their assistance in the arrest of the indictees still at large, as well as in the relocation of acquitted persons, is also vital to the Tribunal's successful completion of its work.

# Introduction

1. The twelfth annual report is submitted to the General Assembly and Security Council by the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, pursuant to article 32 of the Tribunal's statute. It outlines the activities of the Tribunal for the period from 1 July 2006 to 30 June 2007.

2. During the reporting period, the Tribunal, through the Office of the President, the Chambers, the Office of the Prosecutor and the Registry, continued to focus on the implementation of its completion strategy endorsed by the Security Council in its resolution 1503 (2003).

# I. Activities of the Tribunal

## A. Activity of the President

3. During the reporting period until 29 May 2007, Judge Erik Møse (Norway) served as President of the Tribunal and Judge Arlette Ramaroson (Madagascar) as Vice-President. On 21 May 2007, Judge Charles Michael Dennis Byron (Saint Kitts and Nevis) was elected as President of the Tribunal. Judge Khalida Rachid Khan (Pakistan) was elected Vice-President at the same time.

### 1. Judicial activity

4. During the reporting period, the President issued several orders assigning cases to Chambers; reviewed a decision by the Registrar denying a request for withdrawal of Co-Counsel; issued three orders for the continued detention of one accused at the Detention Unit of the International Criminal Tribunal for the Former Yugoslavia, at The Hague, The Netherlands; ruled on restrictive measures imposed upon a convicted person detained at the Detention Unit of the Tribunal in Arusha.

5. The President also assigned a referral Bench under rule 11bis of the Rules of Procedure and Evidence to decide on the transfer of Michel Bagaragaza to a State, but denied a Defence Motion seeking the assignment of a referral Bench in the case of *Édouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera*.

### 2. Completion strategy

6. During the reporting period, the President continued to review and update, in consultation with the Prosecutor, the Tribunal's completion strategy. On 24 May 2007, this document was submitted by President Møse to the Security Council. On 18 June 2007, the newly elected President, Judge Dennis Byron, and the Prosecutor presented their most recent assessment of the implementation of the completion strategy to the Security Council. The assessment included initiatives associated with the management of information and evidence by the Office of the Prosecutor, as well as the Registry's support to the efficient management of trials.

### 3. Diplomatic relations and other representation

7. Until the expiration of his mandate at the end of May 2007, President Møse continued to be in regular contact with United Nations Headquarters and the diplomatic community, in connection with his addresses to the General Assembly and the Security Council in October and December 2006, respectively, as well as during visits by state representatives in Arusha.

8. During his travel to Headquarters in New York in June 2007, President Byron also engaged in cooperation and outreach activities to secure support for the Tribunal's work.

9. Between 18 and 22 June 2007, President Byron met with 13 representatives of States and Ambassadors to the United Nations. He also met the Secretary-General, Ban Ki-moon, and the Deputy Secretary-General, Asha-Rose Migiro, as well as several heads of key departments at Headquarters. These meetings offered the opportunity to inform, in greater detail, these bodies and representatives on the progress and challenges in the completion of the Tribunal's work as well as to capture their views and concerns as the Tribunal moves towards the end of its activities.

## B. Activity of Chambers

### 1. Composition of the Chambers

10. The Chambers are composed of 16 permanent judges and 9 ad litem judges. Nine permanent judges are members of the three Trial Chambers, while seven permanent judges are members of the Appeals Chamber, five of whom sit at any one time.

11. Trial Chamber I is composed of: Judges Erik Møse (Norway), Jai Ram Reddy (Fiji) and Sergei Alekseevich Egorov (Russian Federation), permanent judges. Judge Florence Rita Arrey, ad litem Judge in Trial Chamber III, also serves in Trial Chamber I.

12. Trial Chamber II is composed of: Judges William H. Sekule (United Republic of Tanzania), Arlette Ramaroson (Madagascar) and Asoka J. N. de Silva (Sri Lanka), permanent judges; Judges Solomy Balungi Bossa (Uganda), Lee Gacuiga Muthoga (Kenya), Emile Francis Short (Ghana), Taghrid Hikmet (Jordan) and Seon Ki Park (Republic of Korea), ad litem judges. In addition, Judge Khalida Rashid Khan, a permanent judge in Trial Chamber III, serves in Trial Chamber II for the *Bizimungu et al.* case.

13. Trial Chamber III is composed of: Judges Dennis C. M. Byron (Saint Kitts and Nevis), Khalida Rashid Khan (Pakistan) and Inés Mónica Weinberg de Roca (Argentina), permanent Judges; Judges Florence Rita Arrey (Cameroon), Gberdao Gustave Kam (Burkina Faso), Robert Fremr (Czech Republic) and Vagn Joensen (Denmark), ad litem judges. Judges Lee Gacuiga Muthoga and Emile Francis Short, ad litem judges in Trial Chamber II, also serve in Trial Chamber III. In addition, Judge Karin Hökborg (Sweden), an ad litem judge in Trial Chamber III, served in the *Seromba* and *Rwamakuba* cases, which was completed at the end of 2006.

14. The Appeals Chamber is composed of: Judges Fausto Pocar (Italy), Mohamed Shahabuddeen (Guyana), Mehmet Güney (Turkey), Liu Daqun (China), Andrésia

Vaz (Senegal), Theodor Meron (United States of America) and Wolfgang Schomburg (Germany).

## 2. Principal activity of the Trial Chambers and the Appeals Chamber

### 1. Trial Chamber I

15. During the reporting period, Trial Chamber I rendered one judgement, concluded one large multi-accused case and one single-accused case, heard evidence in two ongoing trials and attended to pre-trial matters in several additional cases.

*The Prosecutor v. Jean Mpambara*

16. On 12 September 2006, Jean Mpambara, a former *bourgmestre* of Rukara commune in northeastern Rwanda, was acquitted of all charges against him. Mpambara was charged with genocide and extermination for his alleged involvement in attacks at three locations in his commune by aiding and abetting and participating in a joint criminal enterprise. The Chamber found that the evidence did not prove beyond a reasonable doubt that he ever instigated or positively assisted the attackers. In fact, the Chamber found significant evidence suggesting that Mpambara had made efforts to prevent violence and that his resources were limited. This trial concluded on 3 May 2006, after 28 trial days.

*The Prosecutor v. Theoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze and Anatole Nsengiyumva* ("*Military I* case")

17. On 18 January 2007, the defence case concluded in the *Military I* trial, involving four former high-ranking military officials. They are jointly charged with genocide, crimes against humanity, and serious violations of the Geneva Conventions and Additional Protocol II. Closing arguments were heard between 28 May and 1 June 2007. The trial concluded after 408 trial days, during which time 242 witnesses testified, 1,584 exhibits were tendered into evidence; and more than 300 written judicial decisions were issued. The *Military I* case is one of the five remaining multi-accused trials at the Tribunal. The conclusion of this trial is an important step in the Tribunal's completion strategy.

*The Prosecutor v. François Karera*

18. The trial of François Karera, a former prefect of Kigali-Rural, commenced on 9 January 2006 and concluded on 24 November 2006. The Chamber heard a total of 43 witnesses, including the accused, over 33 trial days, 15 of which were half days. Judgement is expected shortly.

*The Prosecutor v. Tharcisse Renzaho*

19. On 8 January 2007, the trial of Tharcisse Renzaho, a former prefect of Kigali-ville, commenced. The prosecution case closed on 7 February 2007, after having presented 23 witnesses over the course of 18 trial days. The defence is currently presenting its evidence and is expected to conclude its case in early September 2007.

*The Prosecutor v. Hormisdas Nsengimana*

20. The trial of Abbot Hormisdas Nsengimana, a Catholic priest, commenced on 22 June 2007. Nsengimana, who is accused of genocide and crimes against humanity, was formerly a Rector of Christ-Roi College in Nyanza, Nyabisindu commune in Butare prefecture.

*Pre-trial matters*

21. The Chamber held numerous status conferences and attended to pre-trial matters in six other cases, as well as having confirmed some other indictments. The Chamber also issued a warrant of arrest and order for the transfer of a former prosecution witness before the Tribunal in a case of alleged false testimony and contempt of court.

## 2. Trial Chamber II

22. During the reporting period, Trial Chamber II issued 2 judgements, conducted trials in 6 cases involving a total of 18 accused and attended to pre-trial matters in 5 single-accused cases.

*The Prosecutor v. Tharcisse Muvunyi*

23. On 12 September 2006, the Chamber rendered its judgement in this case. Tharcisse Muvunyi, a Lieutenant-Colonel stationed at the École des sous-officiers in Butare, was convicted of genocide, direct and public incitement to commit genocide, and other inhumane acts. He was acquitted on the charge of rape as a crime against humanity. The case is currently on appeal.

*The Prosecutor v. Joseph Nzabirinda*

24. On 14 December 2006, Joseph Nzabirinda, a former employee of Ngoma commune in Butare working as *encadreur* of youths, pleaded guilty to aiding and abetting murder, a crime against humanity. The Chamber accepted his plea. Following a pre-sentencing hearing on 17 January 2007, where five character witnesses were heard, the Chamber sentenced Nzabirinda to seven years' imprisonment on 23 February 2007.

*The Prosecutor v. Pauline Nyiramasuhuko, Arsène Shalom Ntahobali, Sylvain Nsabimana, Alphonse Nteziryayo, Joseph Kanyabashi, and Élie Ndayambaje* ("*Butare* case")

25. This trial, involving the largest number of jointly prosecuted accused before the Tribunal, has progressed to an advanced stage. On 27 June 2006, Sylvain Nsabimana, prefect of Butare from 19 April to 17 June 1994, started the presentation of his defence. He was the third accused to present his defence in this case. After calling 11 witnesses, including the Accused, he closed his case on 11 November 2006. The defence for Nteziryayo (prefect of Butare from 17 June to July 1994) started on 2 December 2006 and closed on 9 July 2007, after calling 23 witnesses, including the accused. The defence for Kanyabashi (former *bourgmestre* of Ngoma commune in Butare) penultimate accused to present his defence, made its opening statement on 10 July 2007. The case is scheduled to resume on 20 August 2007. Defence cases for Nyiramasuhuko, Ntahobali, Nsabimana and Nteziryayo

have closed, save for one witness for Ntahobali, who is scheduled to testify via video link in October 2007, and one witness for Nteziryayo, who has not yet been located. During the reporting period, 31 written decisions and 22 substantive oral decisions were rendered. The Chamber sat for 142 days.

*The Prosecutor v. Casimir Bizimungu, Justin Mugenzi, Prosper Mugiraneza, and Jérôme Bicamumpaka* ("*Bizimungu et al.* Case")

26. During the reporting period, the defence for Justin Mugenzi (Minister of Trade and Industry in April 1994) completed the presentation of its case on 29 August 2006, after calling 19 witnesses, including the accused. The defence for Casimir Bizimungu (Minister for Health in the Interim Government) then commenced the presentation of his case on 30 August 2006. The Chamber heard 22 witnesses, including the accused. The presentation of this defence took three trial sessions and closed on 12 June 2007. The proceedings are now adjourned to 13 August 2007 for the commencement of the defence of Jérôme Bicamumpaka, the third accused person in this case. During the reporting period, the Chamber sat for 77 days and 30 written and oral decisions were rendered.

*The Prosecutor v. Augustin Ndindiliyimana, Augustin Bizimungu, Francois-Xavier Nzuwonemeye, and Innocent Sagahutu* ("*Ndindiliyimana et al.* Case")

27. This joint trial of four former senior military officers commenced on 20 September 2004. The prosecution closed its case on 7 December 2006 after calling 71 factual witnesses, plus 1 expert witness. The defence of the first accused commenced on 16 April 2007. As of 18 June 2007, the defence had called 24 witnesses. During the reporting period, the Chamber rendered 30 written and 10 oral decisions, and sat for 75 trial days. The case has been adjourned to 17 September 2007 for the continuation of the defence case.

*The Prosecutor v. Emmanuel Rukundo*

28. This trial commenced on 15 November 2006. On 12 March 2007, the prosecution closed its case after calling 18 witnesses during 25 trial days. The defence commenced on 9 July 2007. During the reporting period, the Chamber rendered 14 written and 1 oral decision over the course of 25 trial days.

*The Prosecutor v. Juvénal Rugambarara*

29. This case is still at the pre-trial phase. On 12 June 2007, the Prosecutor filed a motion for leave to amend the indictment. On 13 June 2007, the parties filed a joint motion for consideration of a guilty plea. On 28 June 2007, the Chamber granted the request for amendment of the indictment. The amended indictment was filed on 2 July 2007. On 13 July 2007, the Chamber accepted the guilty plea of the accused and scheduled a sentencing hearing for 17 September 2007.

*Pre-trial matters*

30. The Chamber attended to pre-trial matters in the case of *Tharcisse Renzaho, Hormisdas Nsengimana, Joseph Nzabirinda, Juvénal Rugambarara* and *Emmanuel Rukundo*.

### 3. Trial Chamber III

31. During the reporting period, Trial Chamber III issued two judgements, conducted trials in three cases involving six accused, referred one indictment to a State and attended to pre-trial matters in a case involving one accused.

*The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera*

32. This trial concluded its third session on 10 July 2006, after 32 trial days during which the Chamber heard four prosecution witnesses. The fourth trial session commenced on 26 October 2006. At its conclusion on 13 December 2006, a total of 13 prosecution witnesses had been heard by the Chamber. However, on 19 January 2007, one of the judges withdrew from the case for health reasons. After hearing the parties on the matter, the remaining judges decided, on 6 March 2007, on the continuation of the proceedings with a substitute judge. That decision was affirmed by the Appeals Chamber on 20 April 2007. Judge Vagn Joensen joined the Bench on 8 June 2007. The trial resumed on 12 June 2007 for the continuation of the prosecution case. The fifth trial session concluded on 30 July 2007. During the reporting period, the Chamber sat for 46 days and delivered more than 50 oral and written decisions.

*The Prosecutor v. Athanase Seromba*

33. On 13 December 2006, after hearing a total of 39 witnesses over 67 trial days, the Chamber found Athanase Seromba, a Roman Catholic priest, guilty of genocide and extermination as a crime against humanity. A single sentence of 15 years of imprisonment was imposed on Seromba. Both parties filed a notice of appeal against the judgement.

*The Prosecutor v. André Rwamakuba*

34. This trial concluded on 9 February 2006, after 79 trial days. On 20 September 2006, André Rwamakuba, Minister of Primary and Secondary Education in the Interim Government of April 1994, was acquitted of all charges against him. Rwamakuba was charged with genocide, or alternatively, complicity in genocide, and crimes against humanity for acts allegedly committed between 6 and 30 April 1994 in Gikomero commune and at Butare University Hospital. After assessing the evidence as a whole, the Chamber found the prosecution witnesses not credible or reliable. It concluded that the prosecution failed to prove beyond a reasonable doubt the allegations against Rwamakuba. The Chamber also found that André Rwamakuba's right to legal assistance had been violated as a result of the Registrar's failure to appoint Duty Counsel during the initial months of his detention at the United Nations Detention Facility. It therefore ordered an appropriate remedy. The decision on the appropriate remedy is pending appeal.

*The Prosecutor v. Protais Zigiranyirazo*

35. This trial started on 3 October 2005, with the prosecution calling 25 witnesses, including four investigators and one expert witness. The prosecution closed its case on 28 June 2006, after 46 trial days. Following the Appeals Chamber decision vacating the Trial Chamber's decision to hear prosecution witness Michel Bagaragaza in the absence of the accused, the prosecution reopened its case to hear the witness anew. The prosecution then closed its case for a second time on

30 November 2006. Thus far, the defence has called 35 witnesses over 35 trial days, and will finish its case in the next trial session, set to begin 19 November 2007.

*The Prosecutor v. Simon Bikindi*

36. The trial of Simon Bikindi, a well-known composer and singer of popular music, started on 18 September 2006. The prosecution closed its case on 22 February 2007 after having called 20 witnesses, including one investigator and two expert witnesses. After the withdrawal of the lead counsel for the accused by the Registrar, a new lead counsel was appointed, and the defence case is scheduled to commence on 24 September 2007.

*The Prosecutor v. Michel Bagaragaza*

37. On 30 August 2006, the Appeals Chamber upheld the Trial Chamber's decision denying the prosecution's request for referral of the original indictment against Michel Bagaragaza to Norway. On 30 November 2006, the Trial Chamber granted the prosecution leave to amend the Indictment to add an additional war crimes count. Furthermore, at the prosecution's request, the Chamber granted, in April 2007, the referral of the amended indictment to the Netherlands.

*Pretrial matters*

38. The Chamber is seized of pretrial matters in relation to the case of *Idelphonse Hategekimana*.

## 4. Appeals Chamber

39 During the reporting period, the Appeals Chamber was seized of appeals from judgement in 8 cases, 10 interlocutory appeals, 9 motions for review or reconsideration, and 2 referral appeals. The Appeals Chamber rendered 4 judgements, 9 interlocutory decisions, 8 decisions on review or reconsideration, 1 decision on a referral appeal, and 96 pre-appeal orders and decisions.

### (a) Appeals from Judgement

*The Prosecutor v. André Ntagerura, Emmanuel Bagambiki, Samuel Imanishimwe*

40. On 6 and 7 February 2006, the Appeals Chamber heard, in Arusha, the submissions on the merits of the prosecution's appeal as well as the appeal of Samuel Imanishimwe, an acting commander of the Cyangugu military camp in April 1994. At a court session on 8 February 2006, the Appeals Chamber rejected the prosecution's appeal against the acquittals of André Ntagerura (former Minister of Transport and Communications in the Interim Government) and Emmanuel Bagambiki (prefect of Cyangugu). The judgement was rendered on 7 July 2006.

*The Prosecutor v. Sylvestre Gacumbitsi*

41. On 17 June 2004, the Trial Chamber found Sylvestre Gacumbitsi, a *bourgmestre* in April 1994, guilty of genocide and crimes against humanity. It imposed a single sentence of 30 years' imprisonment.

42. The Appeals Chamber heard the submissions on the merits of the appeals of both parties on 8 and 9 February 2006 in Arusha. On 7 July 2006, the Appeals

Chamber allowed in part the prosecution's appeal and entered a sentence of imprisonment for the remainder of Gacumbitsi's life.

*Emmanuel Ndindabahizi v. The Prosecutor*

43. The Appeals Chamber heard the submissions on the merits of the appeal of the Minister of Finance of the Interim Government on 9 April 1994, Emmanuel Ndindabahizi, on 6 July 2006 in Arusha. On 16 January 2007, the Appeals Chamber vacated three convictions against him, but affirmed the sentence of imprisonment for the remainder of his life imposed by the Trial Chamber.

*Mikaeli Muhimana v. The Prosecutor*

44. On 28 April 2005, Mikaeli Muhimana was found guilty of genocide, and rape and murder as crimes against humanity. He was sentenced to imprisonment for the remainder of his life.

45. The pre-appeal procedures and the briefing were completed during the reporting period. The Appeals Chamber heard the submissions on the merits of the appeals of both parties on 15 January 2007 in Arusha. In the judgement rendered on 21 May 2007, although the Appeals Chamber allowed two grounds of appeal filed by Muhimana, it affirmed his sentence.

*Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze v. The Prosecutor*

46. On 3 December 2003, the Trial Chamber sentenced to life imprisonment Ferdinand Nahimana, Jean-Bosco Barayagwiza, co-founders of Radio Télévision Libre des Milles Collines and members of its Steering Committee, and Hassan Ngeze, founder and Editor-in-Chief of the newspaper *Kangura*, notably for their direct and public incitement to commit genocide through the use of the media.

47. Pre-appeal procedures were completed during the reporting period, with 32 pre-appeal decisions or orders being issued by the Appeals Chamber and the Pre-Appeal Judge, including several decisions on motions for leave to present additional evidence pursuant to rule 115 of the Rules of Procedure and Evidence. The Appeals Chamber heard the submissions on the merits of the appeals by all parties from 16 through 18 January 2007 in Arusha. The Appeals Chamber is currently deliberating on the judgement.

*Aloys Simba v. The Prosecutor*

48. On 13 December 2005, Aloys Simba, a retired lieutenant colonel, was found guilty of genocide and crimes against humanity. He was sentenced to 25 years' imprisonment.

49. The pre-appeal procedures and the briefing were completed during the reporting period. The Appeals Chamber heard the submissions on the merits of the appeals of both parties on 22 May 2007 in Arusha. The Appeals Chamber is currently deliberating on the judgement.

*Tharcisse Muvunyi v. The Prosecutor*

50. Trial Chamber II rendered its judgement in this case during the reporting period, on 12 September 2006, and issued the written judgement on 18 September

2006. Tharcisse Muvunyi filed his notice of appeal on 12 October 2006, and the prosecution filed its notice of appeal on 17 October 2006. The pre-appeal procedures continued through the end of the reporting period, with all briefing being completed in May 2007. The Appeals Chamber is preparing to hear the merits of the appeals in the next reporting period.

*Athanase Seromba v. The Prosecutor*

51. Trial Chamber III rendered its judgement in this case on 13 December 2006, and issued the written judgement on 19 December 2006. Both parties appealed the judgement. The prosecution's notice of appeal was filed on 11 January 2007. Athanase Seromba's notice of appeal was filed on 19 January 2007. The pre-appeal procedures and briefing continued through the end of the reporting period.

**(b) Interlocutory appeals: most significant decisions**

*The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze, Anatole Nsengiyumva,* Decision on Aloys Ntabakuze's Interlocutory Appeal on Questions of Law Raised by the 29 June 2006 Trial Chamber I Decision on Motion for Exclusion of Evidence, 18 September 2006

52. On 18 September 2006, the Appeals Chamber allowed, in part, Aloys Ntabakuze's appeal of a Trial Chamber decision on his request to exclude certain evidence as outside the scope of the indictment. The Appeals Chamber found that the Trial Chamber did not err in its articulation of the principles concerning defects in the indictment and clarified the approach to take when deciding whether an objection based on a defect in the indictment should be considered as timely raised. The Appeals Chamber instructed the Trial Chamber to consider whether the extent of the defects in the indictment materially prejudiced the accused's right to a fair trial by hindering the preparation of a proper defence.

*The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze, Anatole Nsengiyumva,* Decision on Interlocutory Appeal Relating to Disclosure under rule 66 (B) of the Tribunal's Rules of Procedure and Evidence, 25 September 2006

53. On 25 September 2006, the Appeals Chamber granted the appeal of Anatole Nsengiyumva and Gratien Kabiligi against a Trial Chamber decision which denied their request for the disclosure of certain documents related to anticipated defence witnesses that were in the possession of the prosecution. The Appeals Chamber found that the Trial Chamber erred in law by narrowly construing the prosecution's disclosure obligations under rule 66 (B) of the Rules of Procedure and Evidence in a manner inconsistent with the plain language of the provision and ordered the Trial Chamber to reconsider the defence request for the documents.

*The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze, Anatole Nsengiyumva,* Decision on Motion for Reconsideration, 4 October 2006

54. On 4 October 2006, the Appeals Chamber rejected the request of Aloys Ntabakuze to reconsider its "Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice" rendered in the *Karemera et al.* case. The Appeals Chamber found that Aloys Ntabakuze had no standing to seek reconsideration of a

decision rendered in another case. It held that, as a general principle, only a party to a decision may request reconsideration thereof.

*The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera*, Decision on Motions for Reconsideration, 1 December 2006

55. On 1 December 2006, the Appeals Chamber dismissed the requests of Édouard Karemera, Joseph Nzirorera, and Mathieu Ngirumpatse to reconsider its "Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice" of 16 June 2006, in which it ordered Trial Chamber III to take judicial notice of three facts, including the fact that between 6 April and 17 July 1994, there was a genocide in Rwanda against the Tutsi ethnic group. The Appeals Chamber held that the appellants failed to demonstrate a clear error of reasoning in the decision or that reconsideration of the decision was necessary to prevent an injustice.

*The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera*, Decision on Appeals Pursuant to Rule 15bis(D), 20 April 2007

56. On 20 April 2007, the Appeals Chamber dismissed the appeals of Mathieu Ngirumpatse and Joseph Nzirorera from the "Decision on Continuation of the Proceedings", rendered on 6 March 2007, in which the two remaining judges decided to continue the part-heard trial with a substitute judge after one judge withdrew from the Bench. The Appeals Chamber found that the continuation of the trial with a substitute judge would not infringe the fair trial rights of the accused.

*The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera*, Decision on Interlocutory Appeal Regarding Witness Proofing, 11 May 2007

57. On 11 May 2007, the Appeals Chamber dismissed Joseph Nzirorera's appeal of a Trial Chamber decision, which permitted the parties to "proof" their witnesses prior to their testimony. The Appeals Chamber found no error in the Trial Chamber's decision to distinguish a pretrial decision of the International Criminal Court, which prohibited the practice, as it was not binding on the Tribunal. The Appeals Chamber further found that the Trial Chamber's definition of acceptable witness proofing was consistent with the approach approved by the Appeals Chamber in the Gacumbitsi appeal judgement.

*The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera*, Decision on "Joseph Nzirorera's Interlocutory Appeal of Decision on Obtaining Prior Statements of Prosecution Witnesses after They Have Testified", 31 May 2007

58. On 11 April 2007, Joseph Nzirorera appealed against the "Decision on Defence Motion for Cooperation of Rwanda to Obtain Statements of Prosecution Witnesses ALG, GK and UB" of 22 March 2007, on the basis that the two judges who rendered this decision exceeded their authority under rule 15bis(F) of the Rules of Procedure and Evidence. In its decision of 31 May 2007, the Appeals Chamber considered that Rule 15bis(F) allowed for a two-judge bench to conduct routine matters, but that, in this case, the issues considered and ruled upon by the two judges were of a non-routine nature. Consequently, the Appeals Chamber granted the motion in part and vacated the impugned decision.

*Protais Zigiranyirazo v. The Prosecutor*, Decision on Interlocutory Appeal, 30 October 2006

59. On 30 October 2006, the Appeals Chamber granted Protais Zigiranyirazo's appeal of a Trial Chamber decision, which decided to hear a witness in person in the Netherlands while he followed the proceedings by video-link. The Appeals Chamber held that the Trial Chamber erred in law in finding that Protais Zigiranyirazo's right to be present at his trial during the testimony of an apparently key witness against him could be met by video-link and excluded the testimony of the witness.

**(c) Motions for review or reconsideration**

*Georges Rutaganda v. The Prosecutor, Decision on Requests for Reconsideration*, Review, Assignment of Counsel, Disclosure, and Clarification, 8 December 2006

60. On 8 December 2006, the Appeals Chamber dismissed Georges Rutaganda's request for reconsideration and review of the appeal judgement in his case. The Appeals Chamber determined that it had no jurisdiction to reconsider a final judgement and that Georges Rutaganda had not identified any new facts which would have resulted in a miscarriage of justice in his case, necessitating review.

*Eliézer Niyitegeka v. The Prosecutor*, Decision on Request for Review, 6 March 2007

61. On 6 March 2007, the Appeals Chamber dismissed Eliézer Niyitegeka's second request for review. The Appeals Chamber determined that Eliézer Niyitegeka did not identify any new facts for purposes of review.

**(d) Appeal concerning referral**

*The Prosecutor v. Michel Bagaragaza*, Decision on rule 11bis Appeal, 30 August 2006

62. On 30 August 2006, the Appeals Chamber dismissed the prosecution's appeal of a Trial Chamber decision denying its request to transfer the case against Michel Bagaragaza to Norway under rule 11bis of the Rules of Procedure and Evidence. The Appeals Chamber noted that Norway's jurisdiction over Michel Bagaragaza's crimes would be exercised pursuant to legislative provisions addressed to the prosecution of ordinary crimes. The Appeals Chamber held that the Tribunal may refer cases only to States with a capacity to charge and convict for those international crimes listed in the Tribunal's statute.

## C. Activity of the Office of the Prosecutor

63. With regard to the Office of the Prosecutor, headed by Hassan Jallow, all outstanding indictments for genocide have now been confirmed. The Prosecutor has handed 30 case files to the Government of Rwanda for prosecution before the national court. The Prosecutor, pursuant to rule 11bis of the Rules of Procedure and Evidence, has transferred one case to the Netherlands and has filed motions for the transfer of one case to Rwanda and two cases to France. The Prosecutor awaits Trial Chamber decisions on the three motions. Negotiations are in progress with a number of Governments for the transfer of approximately 15 cases from the Tribunal to

national jurisdictions. The African Commission on Human and Peoples' Rights has agreed to monitor all cases transferred to African countries on behalf of the Prosecutor. The tracking of fugitives has intensified.

## D. Activity of the Registry

64. The Registry, headed by Adama Dieng, continued to support the judicial process by providing administrative and management support to the other organs of the Tribunal, and providing judicial and legal support to the Trial Chambers and the defence. The Registry continued to seek support from Member States, international organizations and other stakeholders in the conduct of proceedings.

### 1. Office of the Registrar

65. The Immediate Office of the Registrar has maintained high-level diplomatic contacts and brought about formal and informal agreements with States and international organizations to secure their continued cooperation with the Tribunal and ensure, among other things, the smooth running of trials, protection of witnesses, and the successful and timely meeting of the completion strategy. Rwanda has continued to cooperate with the Tribunal by facilitating the flow of witnesses from Kigali to Arusha and by providing relevant documents to the court proceedings.

66. During the reporting period, there has been a significant increase in judicial cooperation with Member States. The External Relations and Strategic Planning Section sent more than 120 notes verbales and correspondences requesting assistance and judicial cooperation from Member States for defence teams, compared to approximately 100 during the previous year. Official correspondence has been sent to various Member States with a view to organizing meetings and interviews of potential witnesses by members of the defence teams, establishing contacts with potential witnesses in order to obtain their preliminary approval for travel to the seat of the Tribunal for testimony purposes and to organize video-links from several Members States. Overall, the Tribunal benefited from a good level of cooperation from Member States and international organizations.

67. During the reporting period, diplomatic efforts led to the successful relocation of one acquitted person in December 2006. Up to 30 June 2007, three acquitted persons remained under the Tribunal's protection; two of them have remained so for more than three years. The Registrar continues to deploy all efforts for their relocation. An additional relocation took place in early July 2007.

68. The Conference and Protocol Services Unit witnessed an increase of approximately 385 per cent in the number of persons visiting the Tribunal in the first half of 2007. The Tribunal continued to host numerous government ministers, civil society representatives, human rights advocates, members of the Rwandan Genocide Survivors' Association and university students. On 7 March 2007, the President, Prosecutor and Registrar of the Tribunal met with the United States Ambassador-at-Large for War Crimes.

69. The Press and Public Affairs Unit, in compliance with the completion strategy, increased its monitoring and internal circulation of Tribunal-related media reports. The Unit increased the number of press briefings and press releases issued. It also

improved the Tribunal's website, making it more attractive and accessible and updated it daily. The Tribunal updated and recirculated its films, informational brochures, posters and case profile lists, and accused lists were updated to reflect the latest developments. The Unit processed numerous local and international enquiries, and broadcast several judicial proceedings via satellite signal for use by media professionals and the public. In an effort to publicize and promote the work of the Tribunal, the Unit organized exhibitions on the work of the Tribunal in the United Republic of Tanzania, Rwanda, Ghana and several Rwandan schools, and launched an annual drawing and essay competition related to the work of the Tribunal for primary and secondary school students in Rwanda and the United Republic of Tanzania.

70. The Outreach Programme continued to organize regular visits of Rwandan journalists, lawyers, human rights advocates, religious leaders, and civil society representatives to the Tribunal in Arusha, where they were able to attend and observe trials proceedings and to be briefed on various aspects of the work of the Tribunal. The Outreach Programme was strengthened with input from the Press and Public Affairs Unit and witnessed an increase in attendance to an average of 100 visitors per day at *Umusanzu mu Bwiyunge*, the Information Centre in Kigali, Rwanda. The programme, in collaboration with the Rwandan judiciary, also conducted capacity-building needs assessment training. It provided online legal research and training sessions in legal information and evidence management to approximately 290 Rwandan university students, professors, judicial officials, Rwandan court registrars and personnel in the Rwandan Office of the Prosecutor General. The Outreach Programme also extended its awareness-raising campaigns to youth in Rwandan secondary schools. During the reporting period, the Outreach Programme produced documentaries on some of the completed cases of the Tribunal and screened them before approximately 7,000 students in 13 Rwandan schools.

71. During the period under review, the Special Adviser to the Registrar on Gender Issues continued to support the Registrar's executive directive for the attainment of gender balance in the processes of staff recruitment, promotions and the integration of gender concerns in relevant administrative and judicial procedure, and provided technical inputs for promoting the Tribunal's gender-sensitive policies and programmes. The Adviser saw an increase in cooperation and funding from the European Union and the Irish Government. Major activities by the Adviser targeted the provision of support measures conducive to the physical and psychological rehabilitation of witnesses, particularly victims of sexual assault and other gender-based crimes. The Tribunal's Support Programme for Witnesses, funded from the Voluntary Trust Fund and coordinated by the Special Adviser on Gender Issues, provided for the delivery of medical and related social services to witnesses via the Tribunal's Annex Clinic for witnesses in Kigali. This project has witnessed increased accountability for specialized care offered by the Tribunal.

72. During the reporting period, the Legal Services and Internship Programme Unit assigned 205 interns and 13 legal researchers to the various Sections and Units of the Tribunal. The interns and legal researchers came from 46 countries from Africa, Europe, North America, Asia and Australia. On average, 60 per cent of the participating interns were women. The highest number of legal interns and legal researchers were accepted by the Office of the Prosecutor as well as the Chambers Support Section. Additional interns were assigned in smaller numbers to various Registry Sections. Owing to the limited office space set aside for interns, the various

Receiving Sections and Units of the Tribunal could not accommodate more than this number of interns and legal researchers during the period under review.

### 2. Judicial and Legal Services Division

73. During the reporting period, the Court Management Section continued to provide support and services to the various sections of the Chambers of the Tribunal. The English Court Reporters Unit and French Court Reporters Unit have again significantly and efficiently improved the turnaround time for production of transcripts. The real-time court reporting pilot project, initiated in April 2005, has been extended to all ongoing trials. This system provides instantaneous transcripts of the proceedings to the judges and the parties concerned.

74. In addition to supporting the ongoing work of the Trial Chambers, the Judicial Records and Archives Unit has implemented a project to enhance the user-friendliness of the archives system, TRIM database, by converting all documents into full-text searchable material. The original materials from three closed cases have been shipped to United Nations Headquarters in New York for permanent retention. The Judicial Records and Archives Unit staff have conducted several information management training sessions as part of the Rwandan capacity-building programme. It has continued to provide assistance in archiving the administrative records of other support sections within the Tribunal, and has assisted in developing plans and policies regarding the archival legacy of the Tribunal.

75. During the reporting period, the Defence Counsel and Detention Management Section continued to offer necessary support to defence teams representing indigent accused persons or suspects before the Tribunal, as well as provide assistance to accused persons or suspects detained at the United Nations Detention Facility under the authority of the Tribunal. The effective disposal of cases by trial or appeal led to a slight drop in the number of defence teams, from 96 in 2006 to 80 in 2007. There was a measured drop in the number of complaints from detainees. The Defence Counsel and Detention Management Section continues to work on improving its databases. The Unit, in collaboration with the Judicial Records/Archives Unit, worked on its filing and record system to facilitate retrieval of information. The Unit was also pivotal in working to introduce necessary amendments to basic documents.

76. Following the death of one prisoner, the acquittal of two detainees, and the release of one prisoner after completion of his imprisonment term, the United Nations Detention Facility at Arusha housed a total of 55 persons, including 35 detainees and 20 prisoners during this reporting period. The Detention Facility also temporarily housed 23 prisoner witnesses from Rwanda, and one from Mali for the duration of their testimony before the Tribunal. The International Committee of the Red Cross visited the detention facility on 8 November 2006 and noted that it conforms to international prison standards.

77. During the reporting period, the Witnesses and Victims Support Section monitored a total of 280 witnesses, including 114 prosecution witnesses, called to testify in 7 trials and 166 defence witnesses called to testify in 14 trials. In cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) and the government authorities in the concerned countries of residence, one of the prosecution witnesses was relocated and all other witnesses were returned to their countries of residence. Post-trial monitoring and protective measures are

diligently being implemented with improved communication between UNHCR and the witnesses' host countries.

78. During the period under review, the Language Services Section has continued to provide interpretation, translation and reproduction services to the Chambers, the parties and the Registry. In addition, in the light of the completion strategy of the Tribunal, two roster-building campaigns aimed at selecting suitable simultaneous interpreters from various countries were also undertaken with a view to pre-empting any potential disruption in the smooth running of Trial Chambers.

79. During the reporting period, the Legal Library and Reference Section continued to provide valuable information and documentation services in order to support the Tribunal's trial process. The library online public access catalogue enhanced access to the Library holdings and contributed to increase the number of requests for Library services from internal as well as external users. The *Umusanzu* outreach library unit in Kigali increased its collection to respond to the growing demand of Rwandan users, and continued to receive more than 80 users per day. The Library Section initiated the compilation of a jurisprudential DVD that will comprise the case law of the Tribunal from 1995 to 2006. The Library also provided training in library management and jurisprudence compilation to a team of Rwandan judicial librarians. In addition, the Library developed a training curriculum for the Rwandan Bar Association and organized internal training in information management, web design and web publishing in June 2007 for the Tribunal's librarians.

### 3. Division of Administrative Support Services

80. As of 30 June 2007, the Tribunal had 891 staff members against an authorized complement of 1,042 posts, with 151 vacant posts. Members of staff come from 88 countries. The staff gender ratio was 63 per cent male and 37 per cent female. The average vacancy rate during the 12-month period under review was 12 per cent. As at 30 June 2007, the average vacancy rate stood at 15 per cent. If the current trend continues, the Tribunal projects that the vacancy rate will be 22 per cent by the end of 2007. The Training, Staff Welfare and Counselling Unit has increased the number of staff development courses offered in order to assist in improving staff retention.

81. The Health Services Unit in Arusha has introduced trauma counselling services to witnesses who are appearing before the Trial Chambers in order to support them during testimony. Similar counselling services are being provided to staff members experiencing anxiety owing to the closing process of the Tribunal. The Health Services Sub-Unit in Kigali is assisted by a consultant doctor, who is providing medical services to staff members and their dependants. Medical care is also provided in Kigali to witnesses, thanks to the assistance of a doctor, two nurses and a laboratory technician.

## II. Recommendations

82. In view of its completion strategy and the time frames stipulated in Security Council resolutions 1503 (2003) and 1534 (2004), the Tribunal recommends that:

(a) It continue to receive sufficient resources to enable it to complete its work and mandate to bring to justice those persons who were the alleged architects

of the genocide and violations of international humanitarian law that were committed in Rwanda in 1994;

(b) Member States continue to facilitate the travel of witnesses to and from the seat of the Tribunal, particularly in cases where witnesses do not have the required travel documents;

(c) Member States remain receptive to discussions relating to the possible transfer of cases to their respective jurisdictions for trial;

(d) Member States assist and cooperate in the arrest and transfer of accused and suspects who remain at large;

(e) Member States continue to assist the Tribunal to resettle individuals who are acquitted by the Tribunal and who are awaiting identification of a State willing to grant them permanent residence.

## Conclusion

83. As the present report demonstrates, the Tribunal remained committed to doing all in its power to discharge its mandate as effectively and efficiently as possible during the reporting period. The Tribunal intensified its prosecutorial and judicial work and strengthened efforts to improve the Rwandan judicial system, including its capacity to prosecute cases transferred from the Tribunal. Key achievements include: the delivery of five Trial Chamber judgements and four Appeals Chamber judgements; the completion of two cases concerning five accused; the major progress made in the presentation of the defence cases in seven trials involving 18 accused; the commencement of the trial of one accused; a guilty plea in one single-accused case; the referral of one case to a State; and the maximization of the use of the Tribunal's courtrooms.

84. In the process of achieving its mandate, the Tribunal also contributes to bring justice to victims of the massive crimes that were committed, and is continuously establishing a record of facts that will aid reconciliation in Rwanda. The Tribunal will leave a legacy of international jurisprudence that can guide future courts and deter the future commission of these grave crimes, and prevent impunity by potential perpetrators.

85. The Tribunal expresses its appreciation to Member States for their continuing interest in and support of its activities.

United Nations S/2007/503

Security Council

Distr.: General
22 August 2007

Original: English

# Report of the Secretary-General on the United Nations Stabilization Mission in Haiti

## I. Introduction

1. By its resolution 1743 (2007), the Security Council extended the mandate of the United Nations Stabilization Mission in Haiti (MINUSTAH) until 15 October 2007, and requested me to report on its implementation no later than 31 August 2007. The present report covers major developments since my report of 19 December 2006 (S/2006/1003) and progress made in the implementation of the mandate of the Mission as contained in Security Council resolutions 1542 (2004), 1608 (2005), 1658 (2006), 1702 (2006) and 1743 (2007), and also presents recommendations for the future.

## II. Political developments

2. The multiparty Government of Haiti established by President Préval in May 2006 continued to benefit from broad public support, based in particular on improvements in security. The Government's economic achievements included the stabilization of the local currency and a noteworthy reduction in inflation. President Préval sought to anchor the rule of law through initiatives to promote judicial reform and curb corruption and drug trafficking. During my visit to Haiti on 1 and 2 August, the President urged continued United Nations support and requested that MINUSTAH reorient itself with a greater focus on judicial reform, institutional support and the provision of basic services and that it assume additional tasks, such as border management. President Préval also pursued efforts to reinforce regional cooperation, in particular with the Caribbean Community, including through visits to a number of key partners in and beyond the region.

3. On 18 May, President Préval called on Haitians to participate in a war against corruption and to root out bribe-taking officials. He demonstrated his commitment to that policy with prompt and decisive action after tackling the security situation in the urban shanty towns. In June, the second largest seizure of illegal drugs in the history of Haiti led to the arrest of a dozen individuals, half of whom were police officers. Some weeks later, four businessmen were arrested in connection with a high-profile banking corruption scandal. Efforts to fight organized crime continued with the arrests of several key figures connected with drug trafficking and of two prominent businessmen charged with fraud.

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4. The President maintained his multiparty Government through continued dialogue with political parties, legislators and civil-society representatives. However, the relationship between the Government and the parliament remained strained as a result of, inter alia, the lower House's summoning of several ministers and some legislators to replace the Prime Minister. Late in July, the Minister for Culture and Communication was the subject of a vote of no confidence, on the basis of allegations of misuse of public funds, and he resigned early in August. There have also been a number of allegations of corruption against legislators.

5. Political blocs in the parliament have remained fluid, and the rate of absenteeism has frequently caused sessions to be postponed. During the first ordinary session, in January 2007, the legislature adopted the State budget, passed five bills on State loans and one related to development programmes and ratified four international conventions. The pace of work intensified during the extraordinary session held in June. Various committees met with ministers to review budgetary and administrative issues and to inquire into high-profile controversies. In a welcome development, the Senate recently passed two of three bills on the independence of the judiciary (see para. 41).

6. Some of the main political parties struggled with internal conflicts and a lack of unity with their representatives in the parliament and local government. In June, some parties initiated a national review of draft legislation on political party reform, which will be presented to civil society through regional meetings. Also in June, Lespwa, the electoral coalition that brought President Préval to power, began organizing regional meetings to promote its transformation into a political party.

7. There has been significant political interest in devising a process to review provisions in the 1987 Constitution that have been criticized as contradictory or impractical. Additional focus on this issue has been generated by the forthcoming senatorial elections. No agreement has emerged concerning the best method of undertaking such reforms. Several political parties insist that constitutional reform should take place through the mechanisms stipulated in the Constitution. Others have advocated for the drafting of a new Constitution. There are also divergent positions on such key related issues as the electoral system, dual nationality and the status of the army.

8. President Préval has extended his outreach efforts beyond the capital to the municipalities and has demonstrated interest in decentralization and the empowerment of local governance. On four occasions he invited all mayors and deputy mayors to meet with Government officials. President Préval has encouraged the mayors to be proactive in increasing local revenue and fighting corruption. However, the newly elected local authorities are constrained by inadequate resources and an incomplete legal framework. Municipal administrations, which derive the bulk of their revenue from transfers from the central Government, often lack the means to deliver services to the population. Some communal authorities lack the necessary physical facilities to operate effectively. Relations with State representatives in the departments are complicated because of the fact that they were appointed by the Transitional Government and have not been confirmed or replaced by the current Government.

## Elections

9. On 29 April, partial reruns for the local and municipal elections were held without serious incident. Some 300,000 citizens were eligible to cast votes. Voter turnout was relatively uneven, ranging from less than 10 per cent to over 40 per cent. MINUSTAH facilitated the conduct of the elections by providing logistical and administrative assistance to the Provisional Electoral Council and, together with electoral guards and the Haitian National Police, ensured security. Based on the results of those and previous elections, the members of the multiparty Government (Lespwa, Fusion, Organisation du Peuple en Lutte, Union, Alyans and Fanmi Lavalas) govern in 93 of the 140 municipalities. Lespwa took 27 municipalities, more than any other party. The participation rate of women as voters and candidates was higher than in previous elections. Twenty-five women were elected as mayors, a sharp increase from the six elected in 2000.

10. The sub-communal assembly results were published on 7 August. The Constitution now calls for indirect elections to be held to establish councils and assemblies at the municipal, departmental and interdepartmental levels and to designate members of a permanent electoral council, as well as judges up to the appeals level. Draft legislation defining the modalities for such indirect elections has yet to be submitted to the parliament. Once the legislation has been passed, the process of organizing the indirect elections is expected to take at least three months. Funding for the elections (estimated at $500,000) has been secured. In addition, the mandates of one third of the members of the Senate will expire on 14 January 2008, and senatorial elections should be held by the end of 2007. Funding for the senatorial elections (estimated at $16 million) has not yet been secured. MINUSTAH is ready to provide logistical and security support for both elections.

11. A voter registration process to be launched by the Haitian National Office of Identification and the Provisional Electoral Council in collaboration with the Organization of American States will seek to update voter rolls before the senatorial elections are held. It will address mainly those who have turned 18 since the 2005 registration and those who did not register at that time.

## Institutional support and the strengthening of the State

12. The effectiveness of the institutions of governance of Haiti will depend above all on the commitment of the political leadership and civil society to ongoing dialogue and constructive collaboration, although the provision of expertise and material support will also be crucial. Elected officials inherited weak institutions that suffer from shortages of qualified personnel, inadequate infrastructure and limited budgetary and material resources. In response, MINUSTAH is continuing to enhance skills and to promote coordination among international assistance efforts, while providing urgent technical assistance and expert advice for the development of key institutions, including the Office of the President, major ministries, the parliament and relevant local bodies.

13. MINUSTAH has cooperated closely with the Government and legislators, including through advice aimed at strengthening the internal organization of the parliament. It has facilitated contacts between the parliament, civil society and local government and supported thematic meetings between parliamentarians and the

international community. Further assistance to the parliament will be provided through the sharing of best practices of other national legislatures and the promotion of efforts to coordinate international support. MINUSTAH will continue to support parliamentary outreach through multimedia centres in the 10 departments.

14. In order to enhance the impact and sustainability of international cooperation, MINUSTAH and the wider United Nations system have promoted regular coordination meetings between donors and national authorities at the technical and political levels, including discussions between the Government and the international community task force regarding those areas that have been particularly affected by gang violence (see para. 60). The Mission also facilitated monthly consultations between the President, the Prime Minister and the Core Group.

15. MINUSTAH has assisted the Ministry of Interior and Local Government in establishing municipal councils by providing technical expertise on topics such as budgetary principles and management. The Mission also supported training programmes for 58 comptrollers. In order to respond to urgent needs and to help local authorities to deliver a minimum level of functioning local governance, MINUSTAH supported 166 quick-impact projects ($2.02 million), including 92 to rehabilitate public buildings essential for the functioning of local government. An additional quick-impact project ($200,000) is being implemented with the Ministry of Interior and Local Government to provide all mayors and departmental delegates and vice-delegates with municipal start-up kits. Those projects not only provided support for local government at a time when other assistance was not forthcoming, but also paved the way for enhanced support for MINUSTAH by the newly elected officials.

16. In keeping with Government priorities, the Mission, together with the United Nations country team, will continue to focus on extending State authority and building local capacity, particularly with regard to public service delivery, the development of local taxation and the promotion of good governance. In doing so, it will be essential to foster links between institutions at the local level, support State reform and decentralization and promote transparency and the fight against corruption. Complementary bilateral support is crucial to meet infrastructure requirements and to supplement the Mission's expertise, particularly in areas such as the property register, capacity-building, including of the civil service, and the generation of local revenue.

## Integrated border management

17. Lack of control by Haiti of its land and sea borders is a factor of instability affecting the sustainability of the political and economic governance, security and institutional development of the country. Given its 1,600 miles of unprotected coastline, its unguarded seaports and its numerous clandestine airstrips, the country is subject to penetration by those engaged in illicit trafficking, including in arms and drugs, whose activities could create renewed instability if they are not stopped. There have been widespread reports of trafficking activities across the land border and via the ports and coastline, as well as the many small airstrips, of Haiti. The Mission's threat assessment (see para. 26) identified illicit trafficking and the consequent corruption of institutions as significant threats to stability. The loss of

State revenue resulting from the dysfunctional customs service and port administration is also significant.

18. The lack of effective basic border management directly affects the joint efforts of the Haitian authorities and MINUSTAH to enhance security, the rule of law and institutional support. The Government has approved a three-year strategic plan for strengthening the Haitian customs system, which was prepared by the customs service with support from the International Monetary Fund (IMF). However, an integrated approach will be required if the State is to extend its authority to the borders in a comprehensive manner and thereby play a central role in solidifying stability. In this regard, the Government has recently indicated its interest in establishing an appropriate comprehensive border management mechanism.

19. The Mission has identified four crucial objectives in this area: supporting the establishment of an integrated border management strategy and strengthening the related State institutions; improving border security, which should reduce illicit trafficking; increasing revenue and tax collection; and supporting cross-border arrangements.

20. MINUSTAH could make a key contribution by supporting the extension of State authority to the land and maritime borders pending the formulation and implementation of a comprehensive border management strategy endorsed by the Government. With regard to improving border security, it will be necessary for MINUSTAH to redeploy and reorient certain elements of its military and police personnel to assist the Government in controlling the land and maritime borders (see paras. 28 and 29 below). International expertise is essential to assist the Government in the formulation and implementation of such a strategy, as well as to guide the Mission's overall efforts to assist the Government of Haiti in border management.

# III. Security situation

## Security operations

21. There have been significant improvements in the security situation, particularly in the urban areas that had previously been under gang control. The restoration of those areas to State authority represents an important stride forward. In the regions, the security situation remains relatively calm. However, the situation is still fragile (see para. 26 below), and the gains achieved need to be consolidated in order to prevent backsliding and promote long-term stability.

22. The dialogue with members of armed groups initiated by the Government in July 2006 aimed at achieving voluntary disarmament proved unfruitful, prompting the Government and MINUSTAH to increase pressure on the gangs. A series of intensive and intelligence-driven security operations in urban areas, particularly in Port-au-Prince and Gonaïves, restored them to State authority. From 22 December 2006 to 28 February 2007, MINUSTAH and the Haitian National Police conducted a total of 19 security operations in Cité Soleil and Martissant. Those operations dislodged the main gang leaders and, together with other joint operations throughout the country, led to the arrest of some 850 suspected gang members by the end of July. Initially, members of armed groups launched sustained counter-attacks, injuring six peacekeepers. However, armed resistance decreased markedly after two

main gang leaders fled the area. Those operations paved the way for the Haitian National Police, supported by MINUSTAH, to return to those areas and, in March, to begin joint patrols in Cité Soleil.

23. In Martissant, gang rivalry was a source of violence. In January alone, 29 bodies were discovered. MINUSTAH and the Haitian National Police conducted a series of targeted arrests that led to a sharp decrease in the level of violence. On 22 January, an office was established co-locating MINUSTAH military, police and civilian components with the Haitian National Police. The Haitian National Police and MINUSTAH now carry out joint patrols, which have been welcomed by the population. However, while gang violence has declined, there has been a corresponding increase in public lynching.

24. Recent security operations also brought significant improvement in Gonaïves, where gangs had become entrenched. Following a number of violent incidents, including the brutal murders of a Fanmi Lavalas spokesman and of the Director of Radio Gonaïves, MINUSTAH and the Haitian National Police stepped up security operations in early May. During two months of intensified activity focusing largely on the volatile shanty towns, some 90 individuals were arrested.

25. Initial progress has also been made against drug trafficking. The counter-drug unit of the Haitian National Police has conducted limited operations, facilitated by support from the United States of America, including an operation that took place in Léogâne on 31 May that resulted in the seizure of 420 kilograms of cocaine and the arrests of five Haitian National Police officers and of foreign nationals. That seizure gives some indication of the use of Haiti as a significant transit point for the shipment of drugs to the United States and Europe.

26. In July, the Mission conducted a detailed threat assessment, which identified three security threats facing Haiti. First, there is the likelihood of civil unrest, which is increased by an environment marked by the persistence of a deep socio-economic divide and compounded by high unemployment and high expectations on the part of the people. Secondly, the potential for renewed armed violence within the country remains considerable. Despite the fact that many suspected criminals have been apprehended in 2007, relatively few weapons have been confiscated, and many former gang members, who could be persuaded to resume their gang activities by spoilers with political or criminal motives, remain at large. Thirdly, the illicit traffic in drugs, arms and contraband remains a critical factor. If not addressed, illicit trafficking will continue to corrupt State institutions. Corruption, and its acceptance throughout society, will continue to foster impunity. It should be noted that, while incidents of kidnapping have significantly decreased in 2007, the phenomenon still represents a threat.

27. Despite marginal improvements in Haitian National Police capability, it remains unable to undertake crucial security tasks unaided (see para. 38), and MINUSTAH security forces will need to undertake key mandated activities so as to ensure a safe and secure environment and to shore up the gains made thus far. A significant security presence in Port-au-Prince will continue to be required to solidify the security situation there. In the regions, the absence of effective and visible State institutions necessitates a basic security presence on the part of MINUSTAH to monitor developments, promote a sense of stability and prevent incidents. It will also be crucial for MINUSTAH to establish a minimum security

presence along the land and maritime borders of the country — a mandated task not yet addressed because of other priorities.

28. Accordingly, MINUSTAH should retain its military and police components at this time, with some adjustments in composition being made to reflect the changing circumstances and priorities, which call for the military to enhance its capabilities in border control, engineering and mobility, while decreasing its infantry capabilities. It is recommended that the Mission's military force level be reduced by one company (some 140 troops) and that certain heavy equipment be repatriated. The remaining 7,060 troops would be reconfigured in line with the threat assessment. The Mission would reduce its military presence in calmer rural and urban areas, where increased Haitian and international policing capacity would facilitate the transfer of some basic patrolling duties, and would redeploy military personnel to establish patrols within maritime and land border areas, in cooperation with the Haitian National Police and MINUSTAH police. Pending the development of the Haitian National Police maritime policing capacity, coastal patrolling would be undertaken by means of small craft based at key sites around the country. Up to 16 small craft would be required. Some additional engineering capability would also be necessary, as would the retention of a mobile force reserve to address specific incidents.

29. Given the military redeployment and the continuing limitations in Haitian National Police operational capacity, the MINUSTAH police component will need to increase its support for maintaining law and order. It is therefore recommended that the police component be increased, with one additional formed police unit of up to 140 officers. That additional capability would enhance the Mission's ability to support the Haitian National Police in undertaking key basic policing functions, consolidating the progress that has been made in securing and stabilizing urban areas over the past six months and limiting the risk of reversal that might result from a somewhat smaller military component assuming additional border-related tasks. Individual MINUSTAH police officers would support the development of the maritime police within the Haitian National Police and would mentor and monitor Haitian National Police personnel engaged in border responsibilities. Those activities would be aligned with the Mission's overall strategy to progressively transfer geographical and functional responsibilities to Haitian counterparts and to facilitate Haitian National Police engagement in conventional law and order duties, in accordance with the Haitian National Police reform plan. Alongside the Mission's efforts, bilateral support for the Haitian Coast Guard will remain essential if the transitional process is to advance.

30. The combined MINUSTAH and Haitian National Police security assets in Haiti will remain below 20,000 personnel, which has been conservatively identified in the Haitian National Police reform plan as the minimum required to maintain the country's security. The relatively high degree of mobility of the Mission's military and police components should help avoid any major setback. Those arrangements will be kept under review as the security environment continues to evolve and Haitian National Police capacity develops.

### Community violence reduction

31. Although violence in Haiti diminished during the reporting period, it remains a serious concern, in particular because of the prevalence of small arms held by private citizens and the fact that non-traditional actors are involved in fomenting instability. Traditional approaches to disarmament, however, do not address the unique circumstances in Haiti. Recognizing the need for a fresh approach, the Mission worked closely with national counterparts, the United Nations country team and donors to develop a community violence reduction programme. That process was informed by a United Nations assessment mission, as well as by a conference of leading national and international experts dealing with gang violence, which was held in Port-au-Prince.

32. The Mission's reoriented programme focuses on institutional support for and the capacity-building of the National Commission for Disarmament, Dismantlement and Reintegration. The programme will also concentrate on labour-intensive projects to provide an alternative to criminality for those in the violence-affected communities, pending larger-scale economic recovery efforts to be undertaken by the Government and its development partners. It will also support the development of a weapons registry, the revision of current laws on the importation and possession of arms and the reform of the weapons permit system. The programme will include Haitian National Police officers found by the vetting process to be unsuitable for service for reasons other than criminality. Efforts by the national authorities and MINUSTAH to reduce violence can succeed only with strong complementary bilateral assistance, including for promoting employment in gang-affected areas. MINUSTAH will coordinate activities with humanitarian and development partners, including through a steering group.

33. MINUSTAH continued to provide operational support to the National Commission for Disarmament, Dismantlement and Reintegration. In the period since 19 December 2006, 27 reinsertion and community-based projects (valued at $2.1 million) have reached various stages of implementation. Those projects are facilitating the return of former gang members to their communities, reinforcing the capacity of local communities to resolve conflicts peacefully, promoting a culture of peace, assisting victims of violence and supporting the creation of temporary employment. Several of the projects specifically target women, both as victims and as perpetrators of armed violence. So far, 381 individuals have entered the reinsertion programme. Approximately 200 weapons have been handed over.

## IV. Reform of rule-of-law structures

### Strengthening Haitian security capacity

34. Further progress was made to strengthen the Haitian National Police. Some 7,728 Haitian National Police officers are now undertaking policing duties. A further 633 officers from the nineteenth class at the Police Academy are scheduled to begin patrolling in late September 2007. This is in line with the Haitian National Police reform plan, which envisaged that some 1,500 officers would graduate per year. The police have adopted a new seven-month curriculum for basic training, which is followed by three months of field training. The Mission is supporting both

the Academy and the curriculum. For officers who are already serving, the monitoring and mentoring role of MINUSTAH police, including in field training, has helped reinforce core values and raise skill levels as high as those of Academy graduates.

35. MINUSTAH, together with the United Nations Development Programme (UNDP), continues to work closely with the leadership of Haiti in developing the institutional capacity of the Haitian National Police, including through close coordination with donors. Pledges and contributions by donors now total some $46 million in support of the reform plan and are supporting the establishment of a new General Inspectorate headquarters, the refurbishment of some police stations, the provision of equipment for regular operations and the construction of a new national Police Academy. MINUSTAH and the Haitian National Police are working together on the preparation of a maritime police development plan aimed at developing a local capacity capable of gradually assuming the coastal patrolling responsibilities that MINUSTAH will undertake in the meantime. Bilateral support to develop the country's coast-guard capacity remains essential.

36. On 18 January 2007, 220 Haitian National Police officers officially entered the vetting programme in Jérémie. Their files are being reviewed and investigated by the joint Haitian National Police-MINUSTAH teams. The teams have now begun their work in Les Cayes, where they have opened 280 case files. In parallel, 30 additional case files were opened in Port-au-Prince for senior managers of the Haitian National Police. Background checks on officers undergoing training in the Police Academy were completed for the eighteenth and nineteenth classes. Twenty-six recruits have been dismissed to date as a result of background checks. The Inspector General is conducting a separate internal affairs investigation, and about 540 cases have been finalized by the Minister for Justice and Public Security, leading to termination of employment.

37. MINUSTAH continued to mainstream gender issues in the Haitian National Police through the development of educational material for instructors at the Police Academy and training in connection with Haitian National Police gender focal points. The participation of women in the Haitian National Police is gradually increasing. Women currently constitute 6 per cent of police officers, and approximately 12 per cent of cadets in the current class are female. In August, the Haitian National Police, with MINUSTAH support, carried out a registration exercise to encourage women to join the police service, and thousands of women applied for some 150 places in the Academy's next class. MINUSTAH has also supported the establishment of reception units within police stations for female victims of violence.

38. While progress in police reform is encouraging, Haitian National Police capacity remains below the level required to ensure law and order in Haiti. Skill levels are basic, and institutional development is incomplete and fragile. The lack of key resources continues to limit the capacity of the Haitian National Police to operate outside Port-au-Prince. The number of police officers remains far below that required, and the ongoing vetting of police officers will limit staffing in the immediate future. Attaining a viable security structure is a long-term process. In accordance with the reform plan timelines, and assuming that there are no unforeseen obstacles, it will take four more years before the Haitian National Police can reach 14,000 — the minimum figure for basic policing duties.

## Judicial system

39. On 27 March, President Préval convened a special public meeting on the reform of the rule-of-law institutions — a priority issue for his presidency. As a result, an ad hoc committee on judicial reform was established. This so-called follow-up committee is chaired by the Minister for Justice and Public Security and includes representatives from civil society, the Bar Association, human rights organizations, political parties, the parliament and MINUSTAH. On 13 June, the committee presented a report with 18 short-term recommendations to initiate the reform process, which was strongly supported by the Independent Expert of the Secretary-General on the situation of human rights in Haiti. The committee subsequently produced a road map, with timelines, for the implementation of the 18 recommendations.

40. Meanwhile, the Government has continued to work to promote judicial reform, particularly in connection with a legislative framework and strategic planning. In June, the Minister for Justice and Public Security established a small working group to prepare an overall strategic plan for judicial reform, to be finalized and adopted by the Government in liaison with national and international partners in the framework of the poverty reduction strategic plan. The Ministry has also prepared a circular instructing all judges and prosecutors about new procedures for criminal forensic investigations and is developing legal assistance initiatives, in particular to provide basic judicial assistance and legal advice to residents in areas torn by violence.

41. On 31 July and 2 August 2007, the Senate unanimously adopted two bills prepared by the Minister for Justice and Public Security on, respectively, the status of magistrates and the Superior Council, which oversees their functions. The bills are currently before the Chamber of Deputies, while a third bill, on a school for magistrates, remains before the Senate. The progress on those bills constitutes a crucial step towards judicial reform, since they would provide a framework, tools and mechanisms to fight corruption, impunity and ethical and disciplinary problems within the judiciary, as well as establish arrangements for the certification of judges and prosecutors.

42. MINUSTAH, in coordination with its partners, will continue to provide technical advice both to institutions and to individual actors within the judicial system. Particular areas of activity will include assistance to the Ministry of Justice and Public Security, collaboration with Haitian efforts to professionalize judicial actors, including through *accompagnement* (mentoring) and certification programmes, and support for the Government's efforts to ensure effective legal follow-up to major criminal activities. The Mission will continue to assist the Government in promoting the coordination of bilateral assistance, particularly in such areas as restructuring the Ministry, certifying magistrates, legal aid for the most vulnerable and modernizing key legislation.

## Prison system

43. The security and human rights situations in Haitian prisons remain unacceptable. As of August 2007, more than 6,000 detainees were being held within 17 prisons in an area that, in accordance with international standards, should not

accommodate more than 1,088 inmates. The National Penitentiary in Port-au-Prince currently houses 2,700 inmates in accommodation adequate for 800. As of July 2007, 82.5 per cent of prisoners are pretrial detainees (90.4 per cent male, 5.3 per cent female; 3.6 per cent male minors, 0.7 per cent female minors).

44. The early work of the Consultative Commission on Prolonged Pretrial Detention, which was established in February 2007, is encouraging. On 2 July, the Commission submitted its first report, leading to the release of 150 persons, including pregnant women and minors. Given the high rate of illegal pretrial detention, that initiative is of key importance. On 6 August, the Commission presented its second report, on juvenile detention and justice. The Commission has also supported measures by the Minister for Justice and Public Security and the Chief Prosecutor to improve due process and safeguard the penal chain.

45. The National Prison Administration, with assistance from MINUSTAH and UNDP, developed a comprehensive strategic plan, including cost estimates, for prison reform for the next five years, which was approved by the Prime Minister on 7 August. The plan has six elements: (a) the reinforcement of security in corrections facilities; (b) the improvement of prison conditions; (c) the improvement of working conditions for staff; (d) the professionalization of staff; (e) the restructuring of the prison system; and (f) the rehabilitation and social reintegration of inmates.

46. MINUSTAH and UNDP will now support the National Prison Administration in facilitating donor coordination. MINUSTAH and UNDP have also provided technical advice regarding the building of new facilities consistent with international standards. As an urgent measure, MINUSTAH has implemented six quick-impact projects to improve the sanitary conditions in six prisons. International corrections officers will continue to work in the regions, implementing mentoring and training programmes. Continued United Nations and bilateral donor engagement will be essential for the successful implementation of the strategic plan for penal management.

## V. Human rights

47. Crime and urban violence remain of concern, although more Haitians have enjoyed increased security and freedom of movement as a result of the security operations. At the same time, the improvements in the security situation have brought the weakness of the judicial system to the fore, as law enforcement, court and prison systems remain unable to manage the influx of persons arrested and detained.

48. Particular concern continued to be generated by reports of arbitrary arrests, unlawful police custody, ill-treatment and excessive use of force. The Haitian National Police still needs to make improvements in the areas of respect for judicial oversight, legal procedures, professional and scientific investigation techniques and the maintenance of operational and legal records. Meanwhile, lack of technical expertise, poor communications, negligence and apparent corruption on the part of judicial authorities have resulted in numerous unlawful arrests, prolonged pretrial detention and a low number of court decisions.

49. MINUSTAH continued its regular monitoring of police commissariats, prosecutors' offices, justices of the peace, courts and prisons. It has also provided

local authorities and the public with information on developments in the human rights situation and on the institutional functioning of key rule-of-law institutions. In February 2007, MINUSTAH organized two national seminars during which judicial and police authorities dealt with complex challenges pertaining to the protection of judicial guarantees. The Mission has also supported the institutional development of the Haitian National Police General Inspectorate in human rights through training and the exchange of information on individual cases. MINUSTAH also conducted a wide array of advocacy efforts, working closely with civil society, including human rights organizations, women's associations, professional interest groups and the media.

50. As a reflection of public distrust of the judicial system, many Haitians appear to avoid the formal court system and rely on other methods to arbitrate or handle disputes, including lynching. Over the past six months, MINUSTAH has received reports of 60 people having been killed by lynching and of 28 people having been seriously injured or maimed as a result of attempted lynchings. While many of those attacks were spontaneous, others were premeditated acts carried out in response to robberies, family disputes, gang activity or accusations of witchcraft. Unfortunately, the lynching phenomenon has, historically, garnered little public scrutiny from the State or from civil society. However, during the reporting period some 20 individuals were arrested for their participation in lynchings.

51. From 15 to 20 April, in collaboration with the Ministry of Women's Affairs and Rights, MINUSTAH hosted a high-level delegation from the United Nations Division for the Advancement of Women. The delegation initiated the provision of technical support to the Government on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

52. MINUSTAH will continue its monitoring and training activities aimed at strengthening capacities and facilitating institutional reform, while producing periodic and thematic reports to inform key public institutions, including the police, the judicial system, local administrative authorities and the parliament, about the protection of human rights, the fight against impunity and institutional reform. MINUSTAH will ensure that human rights standards are integrated into the vetting of the Haitian National Police, which it will also monitor. In its training activities for law enforcement, judicial and administrative authorities, MINUSTAH will seek to address the key human rights violations and procedural irregularities observed in the field. Support will also be provided to the Government in developing a human rights action plan and in reporting to international treaty bodies on human rights, as well as to the parliament and civil society. Particular emphasis will be placed on strengthening programmatic capacities within the Office of the Ombudsman. MINUSTAH will also augment its civic education efforts to raise awareness among the broader public of human rights and rule-of-law issues, including those related to law enforcement, justice, the fight against impunity and economic, social and cultural rights.

## Child protection

53. Despite the recent improvements, a large number of children continue to be affected by armed violence. MINUSTAH continues to receive reports of the widespread rape and other grave sexual abuse of girls. The holding of minors in

prolonged pretrial detention remains a source of concern. On a positive note, the Juvenile Court of Port-au-Prince resumed functioning in January 2007, with support from MINUSTAH and the United Nations Children's Fund (UNICEF), and the Consultative Commission on Prolonged Pretrial Detention is prioritizing juvenile justice. MINUSTAH and UNICEF continued to provide training on child protection and juvenile justice to judicial actors and Haitian National Police officers.

54. The situation of children in institutional care centres and of children who are victims of trafficking is of great concern. MINUSTAH provided technical assistance to the Brigade for the Protection of Minors, the Institute of Social Well-being and Research and the Office of the Ombudsman to facilitate investigation and family reunification, and it is prioritizing support for the Ministry of Social Affairs to reinforce monitoring of institutional care centres. Lastly, the situation of *restavek* children (children who are forced into domestic labour) remains worrying. UNICEF estimates that there are approximately 173,000 *restavek* children working in Haiti, of whom 60 per cent are girls. They live in appalling conditions and are often beaten and abused.

# VI. Humanitarian recovery and development

## Socio-economic situation

55. Haiti has made progress in stabilizing the economy over the past three years. In May 2007 the annual inflation rate declined to 8.3 per cent, the currency stabilized, international reserves reached close to $250 million and growth, although modest, resumed. On 23 July, the IMF Executive Board completed the first review of the country's economic programme under the Poverty Reduction and Growth Facility arrangement, making some $11.7 million immediately available for disbursement. Haiti can also now benefit from the multilateral debt relief initiatives of the World Bank and the Inter-American Development Bank. Prospects for private sector growth were also enhanced by the adoption by the United States Congress of the Hemispheric Opportunity through Partnership Encouragement Act, which provides preferential tariffs for textiles, the largest export sector in Haiti.

56. If Haiti maintains its current path, real growth is expected in its gross domestic product, which should increase from 2.5 per cent in fiscal year 2005/06 to 3.5 per cent in the current fiscal year and to about 4 per cent over the medium term. Such progress will require continued improvement in terms of security, as well as efforts to foster economic stability and create a more predictable business environment. The spending and implementation capacity of the Government remains limited. Various structural and institutional factors, such as supply bottlenecks in the construction sector, dilapidated infrastructure and the inadequate supply and high cost of basic utility services, need to be addressed. Similarly, education and health services and regulatory frameworks for property rights need to be improved.

57. Despite the macroeconomic improvements, the majority of the population remains in dire poverty. The lack of employment opportunities and public services, exacerbated by rapid population growth, are a source of growing frustration, as are ongoing socio-economic disparities. Further pressure is created by environmental degradation. It remains urgent to address the humanitarian needs and socio-

economic realities of daily life, the extreme hardship of which poses an implicit threat to all efforts to stabilize the country.

58. MINUSTAH and the United Nations country team strive to maximize the impact of their assistance through closer integration and joint programmes. However, their effectiveness will depend on cooperation and strong support from bilateral donors and the re-engagement of the private sector. The international community should give priority to developing innovative approaches for delivering a peace dividend, including through the generation of short-term employment opportunities.

59. While addressing short-term needs, it is also important to prepare for the longer term. The poverty reduction strategy paper, which is expected to be finalized by September 2007, will provide the framework for international assistance by defining concrete programmes and projects in the context of a midterm development framework endorsed by the Government and aimed at fulfilling the Millennium Development Goals. Under the leadership of the Government, and with support from UNDP, the United Nations Population Fund and MINUSTAH, the poverty reduction strategy paper is being prepared through a broad country-wide consultative process. The United Nations system will also develop a new United Nations Development Assistance Framework for 2009 to 2011.

## Humanitarian and socio-economic needs

60. An international task force, comprising MINUSTAH, the United Nations country team, key partners and donors, was launched in January to help ameliorate the dismal situation in the shanty towns of Port-au-Prince. Its aim is to identify a broad strategy as well as short- and medium-term activities for those areas. The Government launched its own task force for Cité Soleil to reinforce coordination and implement a coherent development strategy. Together, the two task forces developed a comprehensive plan, with projects worth some $42 million that are benefiting approximately 300,000 people — implemented or planned by MINUSTAH, the United Nations country team and non-governmental organizations — to address, inter alia, nutrition, water and sanitation and emergency food aid. UNDP and MINUSTAH also began implementing a pilot project funded by the Government of Norway for supporting the most disadvantaged areas of Haiti, while the International Organization for Migration (IOM) undertook complementary confidence-building and reconciliation activities.

61. Haiti has been affected by inclement weather in 2007, including heavy rains in May, affecting over 12,000 families. MINUSTAH, the Office for the Coordination of Humanitarian Affairs, UNDP, UNICEF, the World Food Programme (WFP) and the Food and Agriculture Organization of the United Nations (FAO) provided assistance. Contingency plans for a potentially severe hurricane season were updated by the Office for the Coordination of Humanitarian Affairs in cooperation with the Government. MINUSTAH strengthened its joint operations centre to augment the country's disaster-response capacity through improved logistics, communication and coordination. The Office for the Coordination of Humanitarian Affairs organized a humanitarian and development forum every two weeks to share information and discuss humanitarian issues.

62. An appeal covering the period from January 2007 to June 2008 was launched by the United Nations system for a total of $97.9 million to support the Government's priorities, pending the implementation of the United Nations Development Assistance Framework. Donor response has so far been limited (10 per cent of overall estimated needs). Funding from Canada, Norway and Spain was used for activities in the areas of disaster prevention, agriculture, maternal health and the protection of vulnerable segments of the population, as well as for initiatives at the land border.

63. The United Nations Educational, Scientific and Cultural Organization, UNICEF, the World Bank and bilateral donors supported the Government in developing a national strategy for education. As part of its health programmes targeting pregnant women and malnourished children, WFP distributed more than 6,310 tons of direct food assistance to some 193,000 beneficiaries. School canteens received 3,048 tons of food assistance, providing a daily food supplement for some 312,000 schoolchildren. The WFP food-for-work programme provided 412,000 people with some 829 tons of food assistance and, together with IOM, FAO and UNDP, generated over 1 million person days of employment. The Pan American Health Organization working in collaboration with the World Health Organization, as well as UNICEF and MINUSTAH assisted the Government in organizing a mass immunization campaign that will have an impact on some 7 million people. The United Nations Office for Project Services provided management and support services to the Mission's communications centres as well as to multimedia centres in Haiti that promote dialogue with civil society, local media and the local authorities. It also renovated two hydropower stations.

## VII. Mission support

64. In addition to routine tasks, key mission support activities included logistical assistance for elections in April, the handover of the University of Tabarre to local authorities and the relocation of the Brazilian contingent. Logistical support was also provided for security operations and the establishment of a MINUSTAH office in Martissant. A new joint operations centre was constructed in the Mission's headquarters.

65. Promoting adherence to standards of conduct for personnel and enforcing a zero-tolerance policy for sexual exploitation and abuse remained priorities. MINUSTAH undertook an awareness campaign on the prevention of sexual exploitation, targeting both the public and MINUSTAH personnel. The number of international and national staff who underwent relevant training increased, and two integrated training modules were created for military and police personnel. Additional training on conduct and discipline issues is being provided for all personnel with supervisory, managerial and command responsibilities.

66. Since January 2007, 7 MINUSTAH personnel have died in the course of duty (not from hostile fire), 35 have been medically evacuated to locations outside Haiti and 40 have been medically evacuated to higher-level care within Haiti. Diseases that can have serious health consequences remain a major concern for personnel. Mission personnel also continue to confront serious security hazards. Since January, 8 national staff members have been kidnapped, and approximately 30 staff members, both national and international, have been assaulted.

## VIII. Financial aspects

67. By its resolution 61/284, the General Assembly appropriated the amount of $535,372,800, equivalent to $44,614,400 per month, for the maintenance of MINUSTAH for the period from 1 July 2007 to 30 June 2008. Should the Security Council decide to extend the mandate of MINUSTAH beyond 15 October 2007, the cost of maintaining the Mission until 30 June 2008 would be limited to the amounts approved by the General Assembly.

68. As at 30 April 2007, unpaid assessed contributions to the Special Account for MINUSTAH amounted to $164.8 million. The total outstanding assessed contributions for all peacekeeping operations as at that date amounted to $2,074.6 million.

69. As at 31 July 2007, amounts owed to troop and formed police contributors to MINUSTAH totalled $15.1 million. Reimbursement of troop costs has been made for the period up to 31 May 2007 and, for contingent-owned equipment, up to 31 March 2007, in accordance with the quarterly payment schedule.

## IX. Observations

70. **On 1 and 2 August, I travelled to Haiti to assess the stabilization process and to reaffirm the United Nations commitment to Haiti. I held extensive discussions with members of the Haitian Government and parliament, as well as other influential members of Haitian society, and reviewed the work of the Mission. My visit gave me a first-hand awareness of the degree to which Haiti now stands at a moment of hope unlike anything that has been possible for decades. My optimism is based upon the considerable achievements thus far, and the determination of the Haitian leadership and people to address root causes of Haiti's crisis, with the support of the international community. However, the length of the journey ahead and the fragility of recent gains were also starkly apparent, as was the real possibility that this moment of hope could dissipate unless it is supported through long-term commitment and vision. Haitian and international engagement is essential to consolidate these initial achievements and ensure that they become a firm basis for further progress towards stability and sustainable development.**

71. **The responsibility for Haiti's continued stabilization continues to rest first and foremost with its leadership and people. All actors must set aside divisive approaches and embrace the dialogue and collaboration promoted by President Préval. Recent progress towards the adoption of key legislation related to judicial reform is an encouraging development in this regard. Equally important are decisions to strengthen institutions of governance, such as local authorities, and to establish a permanent electoral council. Respect for the rule of law and State institutions can be further buttressed by support for President Préval's initiatives to end impunity and to curb corruption. These values must be reinforced, including by members of civil society and the private sector.**

72. **Consolidation of the recent achievements will require sustained and substantial international support, including through the continued deployment of MINUSTAH, as called for by President Préval during my visit. The assistance of MINUSTAH remains essential to support Haiti's efforts to achieve key objectives in such areas as governance, security, rule of law, the**

**reinforcement of State institutions and respect for human rights, so as to create an enabling environment for socio-economic development.**

73. **I therefore recommend that the Security Council extend the mandate of the Mission for 12 months, while retaining the responsibilities established in its prior resolutions. After carefully listening to President Préval's priorities and assessing the situation on the ground, I do not see the need for a change in the current mandate, but I believe that MINUSTAH should progressively reorient and reconfigure itself to reflect changing circumstances on the ground.**

74. **While the democratic legitimacy of the Haitian leadership has laid the foundations for a new beginning, stability will depend on the capacity of the authorities at all levels to formulate policy and deliver public services. New areas where MINUSTAH may need to provide technical expertise at the national level would include border management, security strategies and anti-corruption. Appropriate MINUSTAH staff, experienced in border management issues, will be essential to support the efforts of the Government of Haiti in this area. The Mission will also need to help local authorities to attain a minimum level of capacity to serve their constituents. The provision of quick-impact projects continues to make a crucial difference, including by fostering public support for MINUSTAH and the implementation of its mandate and by promoting the safety and security of its personnel.**

75. **Substantial gains have been made in restoring gang-controlled urban areas to State authority. A review of security threats, challenges and risks has shown, however, that the situation remains fragile, and the root causes of instability are still present. Renewed political or criminal violence could re-emerge, as could civil disturbance. In addition, the absence of security forces along the border severely undermines efforts to stabilize the country. International peacekeepers will continue to assume the bulk of security-related responsibilities, pending the gradual development of the Haitian National Police. However, the current force of MINUSTAH needs to be adjusted to address effectively the present situation and possible threats, as well as to support the priorities outlined by President Préval. Accordingly, I recommend that the Mission's security components be reconfigured in line with the concepts outlined in paragraphs 28 and 29 of the present report, and that its troop strength be reduced by one company, to a total of 7,060, while its police component would be increased by an additional formed police unit, making a total of 2,091 police (out of which 1,140 would consist of officers in nine formed police units).**

76. **These arrangements would fall within the overall framework of a gradual transition towards reliance on Haitian structures to maintain stability, with a progressive transfer of functional or geographical responsibilities as corresponding capacity of the Haitian National Police develops. To this end, MINUSTAH will continue to strengthen the Haitian National Police. The Mission will also cooperate closely with the Haitian authorities in support of a comprehensive programme for judicial reform. These processes must be complemented by renewed efforts to shore up the prison system, where conditions remain unacceptable. MINUSTAH support for institutional strengthening and the promotion of good governance remain essential.**

77. During the coming mandate period, MINUSTAH would develop a consolidation plan, with clear benchmarks for progress. Further details and elaboration on the Mission's transition strategy will be provided in my next report to the Security Council. However, the efforts of the Mission can be successful only if they are complemented by robust bilateral assistance in priority areas, including elections. Above all, bilateral actors and the private sector must assist with the economic recovery of the country and promote the generation of employment.

78. In conclusion, I would like to express my appreciation for the courage and dedication of the military, police and civilian personnel of MINUSTAH, and to those Governments that have provided troops and police to the operation. I would also like to place on record my sincere gratitude to my outgoing Special Representative, Edmond Mulet, whose leadership, determination and political skills have made a key contribution to ensuring substantial progress towards the stabilization of the country.

# Annex I

## United Nations Stabilization Mission in Haiti: countries providing military staff and contingents (as at 15 August 2007)

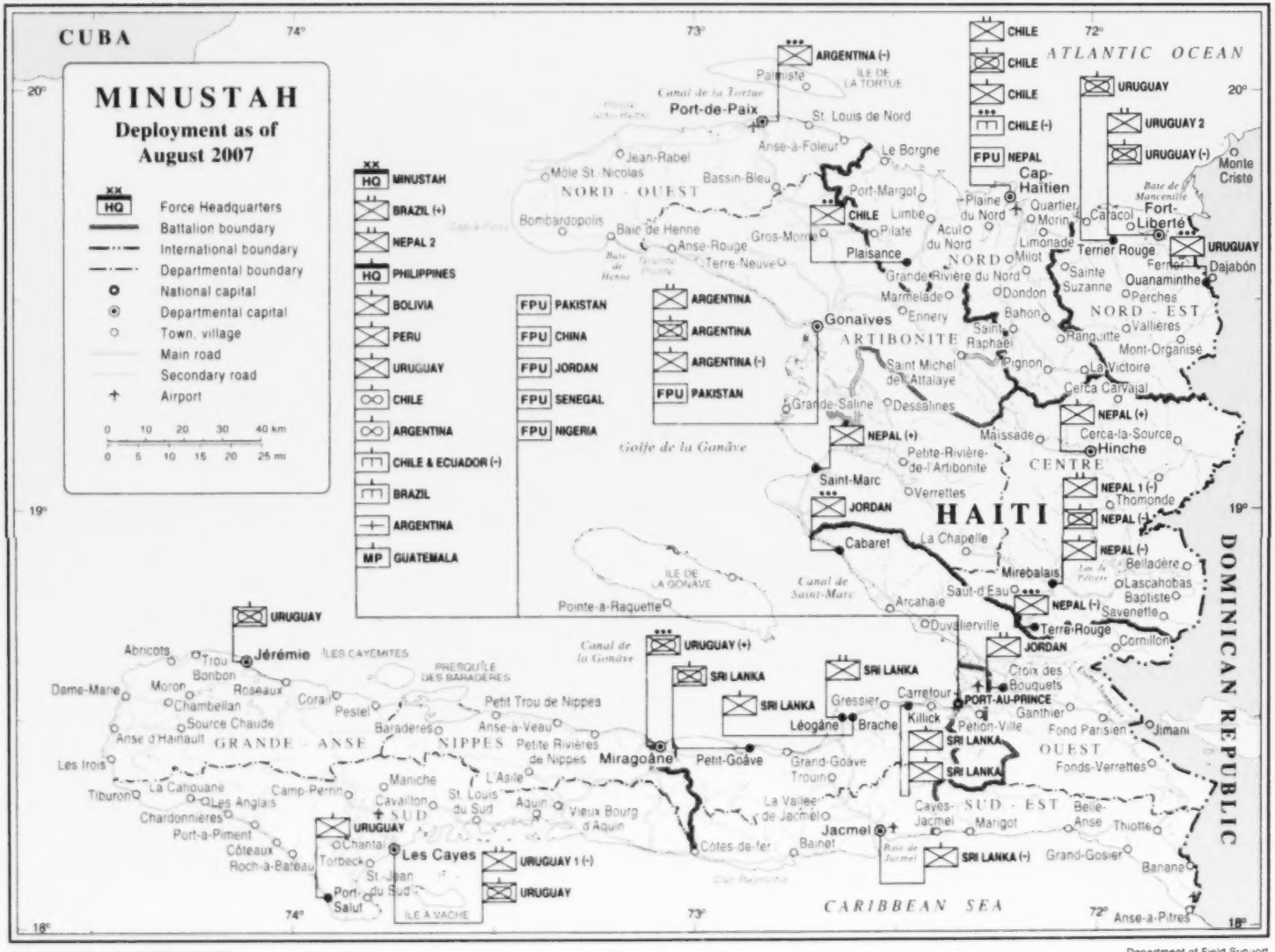
| *Country* | *Staff officers* | *Troops* | *Total* |
|---|---|---|---|
| Argentina | 10 | 552 | 562 |
| Bolivia | 3 | 215 | 218 |
| Brazil[a] | 15 | 1 196 | 1 211 |
| Canada | 4 | — | 4 |
| Chile | 5 | 497 | 502 |
| Croatia | 3 | — | 3 |
| Ecuador | 1 | 66 | 67 |
| France | 2 | — | 2 |
| Guatemala | 5 | 114 | 119 |
| Jordan | 10 | 746 | 756 |
| Nepal | 10 | 1 098 | 1 108 |
| Pakistan | 1 | — | 1 |
| Paraguay | Nil | 31 | 31 |
| Peru | 5 | 205 | 210 |
| Philippines | 1 | 155 | 156 |
| Sri Lanka | 10 | 950 | 960 |
| United States of America | 3 | — | 3 |
| Uruguay | 13 | 1 134 | 1 147 |
| **Total** | **101** | **6 979** | **7 080** |

[a] Including the Force Commander.

# Annex II

## United Nations Stabilization Mission in Haiti: countries providing police officers and formed police units (as at 15 August 2007)

| *Country* | *Police officers* | *Formed police units* | *Total* |
|---|---|---|---|
| Australia | 1 | — | 1 |
| Argentina | 4 | — | 4 |
| Benin | 52 | — | 52 |
| Brazil | 4 | — | 4 |
| Burkina Faso | 57 | — | 57 |
| Cameroon | 42 | — | 42 |
| Canada | 57 | — | 57 |
| Central African Republic | 1 | — | 1 |
| Chad | 1 | — | 1 |
| Chile | 13 | — | 13 |
| China | 11 | 125 | 136 |
| Colombia | 2 | — | 2 |
| Egypt | 11 | — | 11 |
| El Salvador | 3 | — | 3 |
| France | 71 | — | 71 |
| Guinea | 48 | — | 48 |
| Jordan | 4 | 290 | 294 |
| Madagascar | 1 | — | 1 |
| Mali | 61 | — | 61 |
| Mauritius | 1 | — | 1 |
| Nepal | 21 | 125 | 146 |
| Niger | 73 | — | 73 |
| Nigeria | 4 | 125 | 129 |
| Pakistan | — | 249 | 249 |
| Philippines | 11 | — | 11 |
| Romania | 10 | — | 10 |
| Russian Federation | 6 | — | 6 |
| Rwanda | 11 | — | 11 |
| Senegal | 66 | 85 | 151 |
| Spain | 41 | — | 41 |
| Togo | 11 | — | 11 |
| Turkey | 22 | — | 22 |
| United States of America | 49 | — | 49 |
| Uruguay | 2 | — | 2 |
| **Total** | **760** | **999** | **1 770** |


MINUSTAH
Deployment as of August 2007
Force Headquarters
Battalion boundary
International boundary
Departmental boundary
National capital
Departmental capital
Town, village
Main road
Secondary road
Airport
0 10 20 30 40 km
0 5 10 15 20 25 mi
MINUSTAH
BRAZIL (+)
NEPAL 2
PHILIPPINES
BOLIVIA
PERU
URUGUAY
CHILE
ARGENTINA
CHILE & ECUADOR (-)
BRAZIL
ARGENTINA
GUATEMALA
PAKISTAN
CHINA
JORDAN
SENEGAL
NIGERIA
ARGENTINA
ARGENTINA
ARGENTINA (-)
PAKISTAN
CUBA
HAITI
DOMINICAN REPUBLIC
ATLANTIC OCEAN
CARIBBEAN SEA
Port-de-Paix
Gonaives
Cap-Haitien
Fort-Liberté
Hinche
Jérémie
Les Cayes
Jacmel
PORT-AU-PRINCE
Miragoâne
Petit-Goâve
Léogâne
Saint-Marc
Arcahaie
Mirebalais
Thomonde
Ouanaminthe
Dajabón
Anse-a-Pitres
Golfe de la Gonâve
Canal de la Tortue
Canal de Saint-Marc
Canal de la Gonâve
ILE DE LA TORTUE
ILE DE LA GONAVE
ILE A VACHE
PRESQU'ILE DES BARADERES
ILES CAYEMITES
NORD - OUEST
NORD
NORD - EST
ARTIBONITE
CENTRE
OUEST
SUD
SUD - EST
GRANDE - ANSE
NIPPES
Baie de Henne
Baie de Mancenille
Baie de Jacmel
Bombardopolis
Jean-Rabel
Môle St. Nicolas
Bassin-Bleu
Port-Margot
Limbe
Pilate
Plaisance
Gros-Morne
Terre-Neuve
Anse-Rouge
Acul du Nord
Plaine du Nord
Quartier Morin
Limonade
Milot
Caracol
Terrier Rouge
Sainte Suzanne
Ferrier
Perches
Vallières
Ranquitte
Mont-Organisé
Grande Rivière du Nord
Marmelade
Ennery
Dondon
Bahon
Saint Raphaël
Saint Michel de l'Attalaye
Pignon
La Victoire
Cerca Carvajal
Cerca-la-Source
Maïssade
Petite-Rivière-de-l'Artibonite
Verrettes
Grande-Saline
Dessalines
Saut-d'Eau
Belladère
Lascahobas
Baptiste
Savenette
Cornillon
Terre-Rouge
Duvalierville
Croix des Bouquets
Carrefour
Gressier
Killick
Pétion-Ville
Ganthier
Fond Parisien
Jimani
Brache
Grand-Goâve
Petit Trou de Nippes
Petite Rivières de Nippes
Anse-a-Veau
Baraderes
Source Chaude
Anse d'Hainault
Dame-Marie
Moron
Chambellan
Roseaux
Bonbon
Trou
Abricots
Les Irois
Tiburon
La Cahouane
Les Anglais
Chardonnières
Port-a-Piment
Côteaux
Roch-à-Bateau
Camp Perrin
Maniche
Cavaillon
St. Louis du Sud
L'Asile
Aquin
Vieux Bourg d'Aquin
Chantal
Torbeck
St. Jean
Port-du Salut
Côtes-de-fer
La Vallée de Jacmel
Baine
Cayes-Jacmel
Marigot
Belle-Anse
Thiotte
Grand-Gosier
Banane
Pointe-à-Raquette
Map No. 4224 Rev. 18 UNITED NATIONS
August 2007
Department of Field Support
Cartographic Section